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May 27, 2021

British Columbia Utilities Commission
Suite 410, 900 Howe Street
Vancouver, B.C.
V6Z 2N3

Attention: Mr. Patrick Wruck, Commission Secretary

Dear Mr. Wruck:

Re: FortisBC Energy Inc. (FEI)

Section 71 of the *Utilities Commission Act* (UCA) and British Columbia Utilities Commission (BCUC) Rules for Natural Gas Energy Supply Contracts

Filing of a Biomethane Purchase Agreement (BPA) between FEI and SHELL NORTH AMERICA (CANADA) INC. (SHELL) (Application)

Additional Evidence Submission as per Order G-157-21 - Amending Agreement

Further to FEI's submission of Additional Evidence (Exhibit B-3), FEI noted in item (f) that it was working with SHELL to amend the BPA regarding the May 31 condition date.

Attached is the executed amending agreement to the SHELL BPA. The amending agreement provides a termination right if the May 31 condition date in SHELL's agreement with the upstream seller passes. Further, as noted in the Additional Evidence, FEI is still seeking acceptance of the SHELL BPA, as amended, no later than May 31, 2021.

If further information is required, please contact the undersigned.

Sincerely,

FORTISBC ENERGY INC.

Original signed:

Diane Roy

Attachment

cc (email only): Registered Parties

**AMENDMENT TO
BASE CONTRACT FOR SALE AND PURCHASE OF BIOMETHANE
(Amendment No. 1)**

THIS AMENDMENT TO BASE CONTACT FOR SALE AND PURCHASE OF BIOMETHANE (“Amendment”) is made and entered into as of **May [26], 2021** (the “Effective Date”), by and between **Shell Energy North America (Canada) Inc.** (“Shell Energy”) and **FortisBC Energy Inc.** (“FortisBC”). The parties to this Amendment are referred to herein together as the “Parties” and individually as a “Party.”

Recitals:

WHEREAS, the Parties have previously entered into that certain Base Contact for Sale and Purchase of Biomethane dated March 25, 2021, including, without limitation, the Cover Sheet, as such may have been amended, modified or restated from time to time (collectively, the “Agreement”); and

WHEREAS, pursuant to the Agreement, the Parties agreed to that certain Transaction Confirmation dated March 25, 2021; and

WHEREAS, the Parties have now agreed to amend certain provisions of the Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **Amendment of the Agreement.** Effective as of the Effective Date, the following provisions set forth in the Confirmation shall be and are hereby amended as follows:

- (a) The date “August 1, 2021” in Section 3 Delivery Period, shall be amended and replaced with “the first day of the third Month after the Month in which the Condition specified in Section 17(a) is satisfied (*e.g.*, if the Condition is satisfied on July 15, the Commencement Date will occur on October 1)”
- (b) Section 3 Delivery Period shall be amended to add the following at the end of such section:

“Buyer acknowledges that this Transaction is one among a series of transactions enabling Seller to supply the Biomethane hereunder, which includes a transaction between Seller’s Affiliate and the Upstream Seller (the “Upstream Confirmation”). The Upstream Confirmation contains the same condition precedent as the Condition specified in Section 17(i) of this Transaction with the same May 31, 2021 satisfaction date; provided that, if that date lapses a termination right accrues to the Upstream Seller which is exercisable in its

discretion at any time thereafter. Seller desires to cause Seller's Affiliate to amend the Upstream Confirmation to extend the date for satisfaction of the specified condition in such confirmation to be commensurate with the extended date in this Transaction; however, any amendment of the Upstream Confirmation is subject to approval by the board of the Upstream Seller which cannot occur prior to May 31, 2021. As a result, Buyer hereby agrees that if the Upstream Seller exercises its termination right and terminates the Upstream Confirmation before the Upstream Confirmation can be amended to extend the satisfaction date of the condition specified therein related to the regulatory approval of this Transaction, notwithstanding any interim satisfaction of the Condition specified in this Transaction Seller shall have the right to terminate this Transaction on written notice to Buyer. Any such termination pursuant to the preceding sentence shall not result in early termination or other damages or liability under the Base Contract or this Transaction on the part of either party to the other and neither party will have any further payment or performance obligations hereunder to the other party."

- (c) The date "May 31, 2021" in Section 17 Condition, shall be amended and replaced with "November 30, 2021".

2. **Representations.** Each Party hereby represents and warrants to the other Party that:

(a) it has the full power and authority to execute and deliver this Amendment and to perform all of its obligations hereunder;

(b) its obligations under the Agreement, as amended hereby, constitute its legal, valid and binding obligations, enforceable in accordance with its respective terms (subject to applicable bankruptcy, reorganization, insolvency, moratorium or similar laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or at law)).

(c) all representations contained in the Agreement, as amended, are true and accurate as of the date of this Amendment and that such representations are deemed to be given or repeated by each Party, as the case may be, on the date of this Amendment.

3. **Miscellaneous.**

(a) ***Definitions.*** Capitalized terms used and not otherwise defined herein shall have the meanings specified in the Agreement.

(b) ***Entire Agreement.*** This Amendment constitutes the entire agreement and understanding of the Parties with respect to its subject matter and supersedes all oral communication and prior writings (except as otherwise provided herein) with respect thereto. Except as expressly set forth in this Amendment, all other provisions of the

Agreement remain unchanged, in full force and effect, and shall be binding upon the Parties, their representatives, successors and assigns.

(c) **Counterparts.** This Amendment may be executed in as many counterparts as are necessary and all executed counterparts together shall constitute one and the same Amendment. The electronic transmission of a signed original counterpart of this Amendment and transmission, or re-transmission, of an electronically-signed counterpart shall be deemed to be the same as delivery of a signed original counterpart of this Amendment. At the request of either Party, the Parties will confirm an electronically signed or transmitted counterpart by signing an original counterpart for delivery between them by mail or courier service; provided, however, a Party's failure to so confirm such a counterpart shall not affect the validity and enforceability of this Amendment.

(d) **Governing Law.** This Amendment shall be governed by and construed in accordance with the applicable law governing the Agreement.

IN WITNESS WHEREOF, the Parties have executed this Amendment on the dates specified below with effect from the Effective Date.

FORTISBC ENERGY INC.

SHELL ENERGY NORTH AMERICA (CANADA) INC.



DocuSigned by:



By: _____

By: _____

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Greg Chownyk

Name: Joe Mazza

Name: _____

Title: VP, ES & RD

Title: Vice President

Date: May 26, 2021

Date: 5/26/2021